

REMARKS

Claims 56-65 and 67-77 are in the application. Claims 56 and 71 are independent.

Claims 56, 57, 70, and 71 have been amended. Dependent claims 76 and 77 have been added.

Both independent claims recite a multi-chambered vessel and the contents of the chambers. Amended claim 71 remains supported by the specification in the same manner as before. Amended claim 56 is supported in terms of the contents of the vessel chambers by the disclosure at pages 10-11 (see Table 2), as well as the more general discussion at page 4, line 27, to page 5, line 5. Support for new dependent claims 76 and 77 is also found in Table 2.

The applicant would like to express his gratitude for the courtesies extended to his undersigned attorney in the telephone interview of January 18, 2006. The following remarks reflect the discussion in the interview.

The claims were rejected under 35 U.S.C. § 103 as reciting subject matter that would have been obvious from U.S. Patent 3,693,837 to Yuhas or U.S. Patent 3,739,947 to Baumann et al.

The applicant's claims all recite a dosage delivery unit comprising a multi-chambered vessel and the contents of those chambers. Suffice it to say that Yuhas and Baumann do not disclose vessels with the contents of the chambers recited in the applicant's claims 56 and 71, which alone distinguishes the applicant's independent claims from those references. Moreover, the applicant respectfully further submits that neither Yuhas nor Baumann discloses a multi-chambered vessel wherein the contents of the chambers are expelled in response to pressure applied on the vessel from an external source, and a static mixer in communication with the chambers for accepting the contents thereof and mixing them together to form a mixture or

composition that exits the static mixer in response to the applied pressure on the vessel, as is also recited in claims 56 and 71.

The applicant also believes that no other prior art of record would have suggested the dosage delivery units now recited in independent claims 56 and 71. The applicant has submitted an extensive Information Disclosure Statement dated November 2, 2004, with a six-page Form PTO-1449. The Examiner has not indicated that the listed materials have been considered, and the applicant respectfully requests that she do so. Obviously, the Examiner should and will carefully consider all of the cited materials, but in regard to the claims presented here, she may wish to carefully read “Defendant Discus Dental, Inc.’s Preliminary Invalidity Contentions,” and Exhibits D and E thereto (dated September 29, 2003, from BriteSmile v. Discus Dental, Case No. C02-03220 JSW (N.D. Calif.)), and the references cited in therein. That document has invalidity contentions relating to claims of U.S. Patent 6,536,628, a terminal disclaimer with respect to which has been filed in the present application.

In addition, the following references, which are also cited in the Information Disclosure Statement of November 2, 2004, are representative of prior art patents disclosing mixers:

U.S. Patent No. 3,286,992	U.S. Patent No. 3,664,638
U.S. Patent No. 4,408,893	U.S. Patent No. 4,538,920
U.S. Patent No. 4,632,568	U.S. Patent No. 4,767,026
U.S. Patent No. 4,952,068	U.S. Patent No. 5,033,650
U.S. Patent No. 5,429,277	U.S. Patent No. 5,554,665

The applicant believes that the present application is in condition for allowance, and respectfully requests allowance thereof with claims 56-65 and 67-77.

The Examiner indicated during the interview that the claims presented herein appear to be patentable over the prior art of record. The Examiner also indicated that it will be necessary for her to update her search of the prior art and consider the materials in the Information Disclosure Statement dated November 2, 2004, before making a final decision on patentability.

Other points discussed during the interview are summarized in the Interview Summary of January 20, 2006. The recitation of a “multi-chambered” vessel in claims 56 and 71 is in accordance with the Examiner’s indication that that language would be deemed supported by the specification.

REQUEST TO WITHDRAW DOUBLE PATENTING REJECTION

During the interview, the applicant’s attorney requested the Examiner to withdraw the double patenting rejection based on then-pending application No. 10/050,196. The applicant filed a terminal disclaimer with respect to that application on July 21, 2005. The application has since issued, on October 25, 2005, as U.S. Patent 6,958,144. A copy of the patent is enclosed and it is listed on the attached Form PTO-1449.

The applicant requests that the double patenting rejection be withdrawn. The claims of the patent are all method claims. None recite a dosage delivery unit, let alone any dosage delivery unit with the features recited in the claims of the present application.

In the interview, the Examiner stated that she would take under advisement a request to withdraw this particular double patenting rejection. If the double patenting rejection is withdrawn, the applicant will withdraw the terminal disclaimer over application No. 10/050,196 (and U.S. Patent 6,958,144). The Examiner is also requested to acknowledge citation of U.S. Patent 6,958,144 by initialing a copy of the enclosed Form PTO-1449 and returning it with the next action.

SUMMARY

The applicant believes that no fees are due on account of this paper. However, any fees may be charged to Deposit Account No. 50-0409.

If the Examiner has any questions regarding this application, she is requested to telephone the applicant's undersigned attorney.

Respectfully submitted,



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